



February 16, 2005

SENATE BILL No. 56

DIGEST OF SB 56 (Updated February 14, 2005 11:32 am - DI jhm)

Citations Affected: IC 4-3; IC 5-2; IC 5-14; IC 5-22; IC 10-14; IC 10-15; IC 10-19; IC 16-18; IC 16-31; IC 22-12; IC 22-13; IC 22-14; IC 22-15; noncode.

Synopsis: Establishes the department of homeland security. Abolishes the state emergency management agency, the fire and building services department, the public safety and training board, and the public safety institute. Transfers the functions of these entities to the department of homeland security. Reduces the membership of the fire prevention and building safety commission. Requires the governor to appoint members to the commission. Transfers statutes and repeals superseded statutes. Requires the legislative services agency to prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by the establishment of the department of homeland security.

Effective: July 1, 2005.

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January 4, 2005, read first time and referred to Committee on Rules and Legislative Procedure.

February 15, 2005, amended; reassigned to Committee on Homeland Security, Utilities, and Public Policy.

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SB 56—LS 6200/DI 13+



February 16, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 56

A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-1-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is created, as a criminal
3 justice agency of the state, a law enforcement training board to carry
4 out the provisions of this chapter. The board members are to be
5 selected as provided by this chapter. The board is composed of **the**
6 **following members:**

7 **(1) The deputy director of the division of preparedness and**
8 **training of the department of homeland security. The deputy**
9 **director serves as the chair of the board.**

10 ~~(+)~~ **(2) The superintendent of the Indiana state police department.**
11 ~~who shall serve as ex officio chairman of the board;~~

12 **(3) The chief of police of a consolidated city.**

13 **(4) One (1) county sheriff from a county with a population of**
14 **at least one hundred thousand (100,000).**

15 ~~(2)~~ **(5) One (1) county sheriff from a county of at least fifty**
16 **thousand (50,000) but less than one hundred thousand**
17 **(100,000) population.**

SB 56—LS 6200/DI 13+



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~~(3)~~ **(6)** One (1) county sheriff from a county of under fifty thousand (50,000) population.

~~(4)~~ **(7)** One (1) chief of police from a city of at least thirty-five thousand (35,000) population, **who is not the chief of police of a consolidated city.**

~~(5)~~ **(8)** One (1) chief of police from a city of at least ten thousand (10,000) but under thirty-five thousand (35,000) population.

~~(6)~~ **(9)** One (1) chief of police, police officer, or town marshal from a city or town of under ten thousand (10,000) population.

~~(7)~~ **(10)** One (1) prosecuting attorney.

~~(8)~~ **(11)** One (1) judge of a circuit or superior court exercising criminal jurisdiction.

~~(9)~~ **(12)** One (1) member representing professional journalism.

~~(10)~~ **(13)** One (1) member representing the medical profession.

~~(11)~~ **(14)** One (1) member representing education.

~~(12)~~ **(15)** One (1) member representing business and industry.

~~(13)~~ **(16)** One (1) member representing labor. ~~and~~

~~(14)~~ **(17)** One (1) member representing Indiana elected officials of counties, cities, and towns.

(b) The following members constitute an advisory council to assist the members of the ~~law enforcement training~~ board in an advisory, nonvoting capacity:

(1) The special agent in charge of the Federal Bureau of Investigation field office covering the state of Indiana, subject to the agent's approval to serve in such capacity.

(2) The attorney general of Indiana.

~~(3) The administrative director of the Indiana commission on forensic sciences.~~

(3) One (1) member representing forensic science, to be appointed by the governor.

(4) One (1) member representing theology, to be appointed by the governor.

(5) The director of the law enforcement division of the department of natural resources.

SECTION 2. IC 5-14-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has

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1 been made; or
 2 (2) twenty-four (24) hours elapse after any employee of the public
 3 agency refuses to permit inspection and copying of a public
 4 record when a request has been made;
 5 whichever occurs first.

6 (b) If a person requests by mail or by facsimile a copy or copies of
 7 a public record, a denial of disclosure does not occur until seven (7)
 8 days have elapsed from the date the public agency receives the request.

9 (c) If a request is made orally, either in person or by telephone, a
 10 public agency may deny the request orally. However, if a request
 11 initially is made in writing, by facsimile, or through enhanced access,
 12 or if an oral request that has been denied is renewed in writing or by
 13 facsimile, a public agency may deny the request if:

14 (1) the denial is in writing or by facsimile; and

15 (2) the denial includes:

16 (A) a statement of the specific exemption or exemptions
 17 authorizing the withholding of all or part of the public record;
 18 and

19 (B) the name and the title or position of the person responsible
 20 for the denial.

21 (d) This subsection applies to a board, a commission, a department,
 22 a division, a bureau, a committee, an agency, an office, an
 23 instrumentality, or an authority, by whatever name designated,
 24 exercising any part of the executive, administrative, judicial, or
 25 legislative power of the state. If an agency receives a request to inspect
 26 or copy a record that the agency considers to be excepted from
 27 disclosure under section 4(b)(19) of this chapter, the agency may
 28 consult with the counterterrorism and security council established
 29 under IC 4-3-20 by IC 10-19-8-1. If an agency denies the disclosure
 30 of a record or a part of a record under section 4(b)(19) of this chapter,
 31 the agency or the counterterrorism and security council shall provide
 32 a general description of the record being withheld and of how
 33 disclosure of the record would have a reasonable likelihood of
 34 threatening the public safety.

35 (e) A person who has been denied the right to inspect or copy a
 36 public record by a public agency may file an action in the circuit or
 37 superior court of the county in which the denial occurred to compel the
 38 public agency to permit the person to inspect and copy the public
 39 record. Whenever an action is filed under this subsection, the public
 40 agency must notify each person who supplied any part of the public
 41 record at issue:

42 (1) that a request for release of the public record has been denied;

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and

(2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(g) If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

(i) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff

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from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) A court shall expedite the hearing of an action filed under this section.

SECTION 3. IC 5-22-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety.

(b) The counterterrorism and security council established by ~~IC 4-3-20-2~~ **IC 10-19-8-1** may make a purchase under this section to preserve security or act in an emergency as determined by the governor.

SECTION 4. IC 10-14-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. "Agency" refers to the ~~state emergency management agency~~ **department of homeland security** established by ~~IC 10-14-2-1~~ **IC 10-19-2-1**.

SECTION 5. IC 10-14-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Director" refers to the ~~executive~~ director of the ~~agency~~ **department of homeland security** appointed under ~~IC 10-14-2-2~~ **IC 10-19-3-1**.

SECTION 6. IC 10-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is **any of the following**:

- (1) A member of a fire department (as defined in IC 36-8-1-8).
- (2) An emergency medical service provider (as defined in IC 16-41-10-1).
- (3) A member of a police department (as defined in IC 36-8-1-9).
- (4) A correctional officer (as defined in IC 5-10-10-1.5).
- (5) A state police officer.
- (6) A county police officer.
- (7) A police reserve officer.
- (8) A county sheriff.
- (9) A deputy sheriff.
- (10) An excise police officer.
- (11) A conservation enforcement officer.
- (12) A town marshal.
- (13) A deputy town marshal.
- (14) A university police officer appointed under IC 20-12-3.5.
- (15) A probation officer.
- (16) A paramedic.



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(17) A volunteer firefighter (as defined in IC 36-8-12-2).

(18) An emergency medical technician or a paramedic working in a volunteer capacity.

(19) A member of the armed forces of the United States.

(20) A member of the Indiana Air National Guard. ~~or~~

(21) A member of the Indiana Army National Guard.

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:

(1) the surviving spouse;

(2) the surviving children if there is no surviving spouse; or

(3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.

(d) The ~~state emergency management~~ agency shall administer this section. ~~and~~

(e) **The director** may adopt rules under IC 4-22-2 to implement this section.

SECTION 7. IC 10-14-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The ~~agency~~ **director** shall adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 8. IC 10-14-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The ~~agency~~ **director** may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 9. IC 10-15-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. "Department" refers to the ~~fire and building services~~ department **of homeland security** established by ~~IC 22-12-5-1~~ **IC 10-19-2-1**.

SECTION 10. IC 10-15-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Executive director" refers to the executive director of the ~~Indiana emergency management, fire and building services, and public safety training foundation~~ established by ~~IC 10-15-2-1~~ **department of homeland security appointed under IC 10-19-3-1**.

SECTION 11. IC 10-15-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The foundation consists of ~~fifteen (15)~~ **nine (9)** voting members and four (4) nonvoting

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advisory members.

(b) The voting members shall be appointed by the governor. ~~The voting members are as follows:~~

~~(1) The executive director, subject to subsection (d);~~

~~(2) The state fire marshal;~~

~~(3) The state building commissioner;~~

~~(4) The deputy director of the state emergency management agency;~~

~~(5) The deputy director of the state emergency management agency for emergency medical services;~~

~~(6) Ten (10) individuals appointed by the governor.~~ Each Indiana congressional district must be represented by at least one (1) member who is a resident of that congressional district. Not more than five (5) of the members appointed under this subdivision may represent the same political party.

(c) The four (4) nonvoting advisory members are as follows:

(1) Two (2) members, one (1) from each political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(2) Two (2) members, one (1) from each political party, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

~~(d) The executive director may vote for tie breaking purposes only.~~

~~(e) (d)~~ In the absence of a member, the member's vote may be cast by another member if the member casting the vote has a written proxy in proper form as required by the foundation.

SECTION 12. IC 10-15-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A quorum consists of ~~eight (8)~~ **five (5)** of the voting members of the foundation. ~~described in section 2(b)(2) through 2(b)(6) of this chapter.~~

(b) ~~One (1) of The following affirmative vote of at least five (5) voting members of the foundation~~ is necessary for the foundation to take action.

~~(1) An affirmative vote by at least eight (8) of the fifteen (15) members.~~

~~(2) A tie vote broken by the executive director.~~

SECTION 13. IC 10-15-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The term of each **voting** member ~~appointed under section 2(b)(6) of this chapter~~ is four (4) years.

(b) A member appointed to fill the unexpired term of a member serves until the end of the unexpired term.

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(c) At the expiration of a member's term, the member may be reappointed if the member continues to ~~be a part of~~ **reside in** the represented ~~entity.~~ **congressional district.** A person is no longer a member when the ~~person~~ **individual** ceases to be a ~~part~~ **resident** of the represented ~~entity.~~ **congressional district.**

SECTION 14. IC 10-15-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The terms of the **voting** members ~~appointed under section 2(b)(6) of this chapter~~ begin on July 1.

SECTION 15. IC 10-15-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) At the foundation's first meeting after June 30 of each year, the voting members ~~appointed under section 2(b)(2) through 2(b)(6) of this chapter~~ shall select:

(1) one (1) of the voting members ~~who is not a state employee~~ to serve as chairperson; and

(2) one (1) of the voting members ~~who is not a state employee~~ to serve as vice chairperson.

(b) The vice chairperson shall exercise all the duties and powers of the chairperson in the chairperson's absence or disability.

SECTION 16. IC 10-19 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 19. DEPARTMENT OF HOMELAND SECURITY
Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Council" refers to the counterterrorism and security council established by IC 10-19-8-1.

Sec. 3. "Department" refers to the department of homeland security established by IC 10-19-2-1.

Sec. 4. "Executive director" refers to the executive director of the department of homeland security appointed under IC 10-19-3-1.

Chapter 2. Department Established

Sec. 1. The department of homeland security is established.

Sec. 2. The department consists of the following divisions:

(1) The division of planning and assessment.

(2) The division of preparedness and training.

(3) The division of emergency response and recovery.

(4) The division of fire and building safety.

Chapter 3. Executive Director

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1 **Sec. 1. The governor shall appoint an individual to be the**
 2 **executive director of the department.**

3 **Sec. 2. The executive director:**

- 4 (1) **serves at the governor's pleasure; and**
 5 (2) **is entitled to receive compensation in an amount set by the**
 6 **governor.**

7 **Sec. 3. The executive director shall do the following:**

- 8 (1) **Serve as the chief executive and administrative officer of**
 9 **the department.**
 10 (2) **Serve as the director of the council.**
 11 (3) **Administer the application for, and disbursement of,**
 12 **federal and state homeland security money for all Indiana**
 13 **state and local governments.**
 14 (4) **Develop a single strategic plan for preparing and**
 15 **responding to homeland security emergencies in consultation**
 16 **with the council.**
 17 (5) **Serve as the state coordinating officer under federal law**
 18 **for all matters relating to emergency and disaster mitigation,**
 19 **preparedness, response, and recovery.**
 20 (6) **Use and allocate the services, facilities, equipment,**
 21 **personnel, and resources of any state agency, on the**
 22 **governor's behalf, as is reasonably necessary in the**
 23 **preparation for, response to, or recovery from an emergency**
 24 **or disaster situation that threatens or has occurred in**
 25 **Indiana.**

26 **Sec. 4. The executive director may appoint employees in the**
 27 **manner provided by IC 4-15-2 and fix their compensation, subject**
 28 **to the approval of the budget agency under IC 4-12-1-13.**

29 **Sec. 5. The executive director may delegate the executive**
 30 **director's authority to the appropriate department staff.**

31 **Sec. 6. For purposes of IC 4-21.5, the executive director is the**
 32 **ultimate authority for the department.**

33 **Sec. 7. (a) Except as provided in subsections (b) and (c), for**
 34 **purposes of IC 4-22-2, the executive director is the authority that**
 35 **adopts rules for the department.**

36 **(b) The Indiana emergency medical services commission is the**
 37 **authority that adopts rules under IC 16-31.**

38 **(c) The fire prevention and building safety commission is the**
 39 **authority that adopts rules under any of the following:**

- 40 (1) **IC 22-11.**
 41 (2) **IC 22-12.**
 42 (3) **IC 22-13.**

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- 1 (4) IC 22-14.
- 2 (5) IC 22-15.
- 3 Chapter 4. Division of Planning and Assessment
- 4 Sec. 1. The division of planning and assessment is established
- 5 within the department.
- 6 Sec. 2. The division shall do the following:
- 7 (1) Develop a single strategic plan for preparing for and
- 8 responding to homeland security emergencies.
- 9 (2) Assess state and local security needs.
- 10 (3) Disburse federal and state homeland security money for all
- 11 Indiana state and local governments.
- 12 Sec. 3. The executive director shall appoint an individual as a
- 13 deputy executive director to manage the division.
- 14 Chapter 5. Division of Preparedness and Training
- 15 Sec. 1. The division of preparedness and training is established
- 16 within the department.
- 17 Sec. 2. The division shall administer the following:
- 18 (1) IC 10-15.
- 19 (2) All other state emergency management and response
- 20 training programs.
- 21 Sec. 3. The executive director shall appoint an individual as a
- 22 deputy executive director to manage the division.
- 23 Sec. 4. The deputy executive director appointed under section 3
- 24 of this chapter shall serve as the chair of the law enforcement
- 25 training board under IC 5-2-1-3.
- 26 Chapter 6. Division of Emergency Response and Recovery
- 27 Sec. 1. The division of emergency response and recovery is
- 28 established within the department.
- 29 Sec. 2. The division shall do the following:
- 30 (1) Administer IC 10-14.
- 31 (2) Administer the state's emergency operations functions
- 32 during an emergency.
- 33 Sec. 3. The executive director shall appoint an individual as a
- 34 deputy executive director to manage the division.
- 35 Chapter 7. Division of Fire and Building Safety
- 36 Sec. 1. The division of fire and building safety is established
- 37 within the department.
- 38 Sec. 2. The division shall administer the following:
- 39 (1) IC 16-31.
- 40 (2) IC 22-11.
- 41 (3) IC 22-12.
- 42 (4) IC 22-13.

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(5) IC 22-14.

(6) IC 22-15.

Sec. 3. (a) The state fire marshal appointed under IC 22-14-2-2 shall do the following:

(1) Serve as the deputy executive director of the division.

(2) Administer the division.

(3) Serve as secretary for the fire prevention and building safety commission established by IC 22-12-2-1.

(b) The state fire marshal may not exercise any powers or perform any duties specifically assigned to either of the following:

(1) The fire prevention and building safety commission.

(2) The building law compliance officer.

Sec. 4. (a) The division shall employ a building law compliance officer.

(b) The building law compliance officer shall administer the building safety laws (as defined in IC 22-12-1-3).

Chapter 8. Counterterrorism and Security Council

Sec. 1. The counterterrorism and security council is established.

Sec. 2. (a) The council consists of the following members:

(1) The lieutenant governor.

(2) The executive director.

(3) The superintendent of the state police department.

(4) The adjutant general.

(5) The state health commissioner.

(6) The commissioner of the department of environmental management.

(7) The assistant commissioner of agriculture.

(8) The chairman of the Indiana utility regulatory commission.

(9) The commissioner of the Indiana department of transportation.

(10) The executive director of the Indiana criminal justice institute.

(11) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

(12) The speaker of the house of representatives or his designee.

(13) The president pro tempore of the senate or his designee.

(14) The chief justice of the supreme court.

(b) The members of the council under subsection (a)(12), (a)(13), and (a)(14) are nonvoting members.

(c) Representatives of the United States Department of Justice

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1 may serve as members of the council as the council and the
 2 Department of Justice may determine. Any representatives of the
 3 Department of Justice serve as nonvoting members of the council.

4 Sec. 3. The lieutenant governor shall serve as the chair of the
 5 council and in this capacity report directly to the governor.

6 Sec. 4. (a) The council shall do the following:

7 (1) Develop a strategy in concert with the department to
 8 enhance the state's capacity to prevent and respond to
 9 terrorism.

10 (2) Develop a counterterrorism plan in conjunction with
 11 relevant state agencies, including a comprehensive needs
 12 assessment.

13 (3) Review each year and update when necessary the plan
 14 developed under subdivision (2).

15 (4) Develop in concert with the department a
 16 counterterrorism curriculum for use in basic police training
 17 and for advanced in-service training of veteran law
 18 enforcement officers.

19 (5) Develop an affiliate of the council in each county to
 20 coordinate local efforts and serve as the community point of
 21 contact for the council and the United States Department of
 22 Homeland Security.

23 (6) Develop a plan for sharing intelligence information across
 24 multiple federal, state, and local law enforcement and
 25 homeland security agencies.

26 (b) The council shall report periodically its findings and
 27 recommendations to the governor.

28 Sec. 5. (a) The executive director may employ staff for the
 29 council, subject to the approval of the governor.

30 (b) The executive director shall serve as:

- 31 (1) the central coordinator for counterterrorism issues; and
 32 (2) the state's point of contact for:

33 (A) the Office for Domestic Preparedness in the United
 34 States Department of Justice; and

35 (B) the United States Department of Homeland Security.

36 Sec. 6. (a) The expenses of the council shall be paid from
 37 appropriations made by the general assembly.

38 (b) Money received by the council as a grant or a gift is
 39 appropriated for the purposes of the grant or the gift.

40 Sec. 7. (a) Each member of the council who is not a state
 41 employee is not entitled to the minimum salary per diem provided
 42 by IC 4-10-11-2.1(b). The member is, however, entitled to

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1 reimbursement for travel expenses as provided in IC 4-13-1-4 and
 2 other expenses actually incurred in connection with the member's
 3 duties as provided in the state policies and procedures established
 4 by the Indiana department of administration and approved by the
 5 budget agency.

6 (b) Each member of the council who is a state employee but who
 7 is not a member of the general assembly is entitled to
 8 reimbursement for travel expenses as provided under IC 4-13-1-4
 9 and other expenses actually incurred in connection with the
 10 member's duties as provided in the state policies and procedures
 11 established by the Indiana department of administration and
 12 approved by the budget agency.

13 (c) Each member of the council who is a member of the general
 14 assembly is entitled to receive the same per diem, mileage, and
 15 travel allowances paid to legislative members of interim study
 16 committees established by the legislative council. Per diem,
 17 mileage, and travel allowances paid under this subsection shall be
 18 paid from appropriations made to the legislative council or the
 19 legislative services agency.

20 Sec. 8. The affirmative votes of a majority of the voting
 21 members of the council are required for the council to take action
 22 on any measure, including final reports.

23 Sec. 9. (a) The council may receive confidential law enforcement
 24 information from the state police department, the Federal Bureau
 25 of Investigation, or other federal, state, or local law enforcement
 26 agencies.

27 (b) For purposes of IC 5-14-1.5 and IC 5-14-3, information
 28 received under subsection (a) is confidential.

29 Sec. 10. All state agencies shall cooperate to the fullest extent
 30 possible with the council and the executive director to implement
 31 this chapter.

32 Chapter 9. Public Safety Training

33 Sec. 1. As used in this chapter, "division" refers to the division
 34 of preparedness and training.

35 Sec. 2. As used in this chapter, "public safety service provider"
 36 or "provider" means an officer or employee of the state, an officer
 37 or employee of a governmental unit, or a volunteer who is engaged
 38 in at least one (1) of the following activities:

- 39 (1) Firefighting.
- 40 (2) Emergency management.
- 41 (3) Environmental management.
- 42 (4) Fire or building inspection.

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1 (5) Emergency medical service.

2 (6) Any other public safety or homeland security activity that
3 the division may designate.

4 Sec. 3. (a) The division shall develop and provide a training
5 program for public safety service providers. The division shall
6 offer only instruction that is more advanced than the basic training
7 that is required for entry level into a provider's position. The
8 division may not offer equipment oriented training.

9 (b) Participation in the training program is optional for a
10 provider.

11 Sec. 4. Subject to section 3(b) of this chapter, the division shall
12 establish and conduct advanced training programs in public safety
13 and homeland security subjects on a voluntary enrollment basis.
14 The division may offer courses to any public safety service
15 provider that the division determines will benefit from the training.

16 Sec. 5. The division may establish training facilities at which the
17 division provides programs. The division shall establish policies
18 and procedures for the use of any training facilities that the
19 division establishes.

20 Sec. 6. The division may recommend or conduct studies or
21 surveys. The division may require reports from the chief executive
22 of a governmental or volunteer provider organization for the
23 purposes of this chapter.

24 Sec. 7. The division may originate, compile, and disseminate
25 training materials to providers.

26 Sec. 8. The division may establish a system of issuing diplomas
27 or certificates for persons who successfully complete the division's
28 training programs.

29 Sec. 9. Upon request, the division may assist a provider
30 organization in the development of training programs for the
31 organization's personnel.

32 Sec. 10. The division may consult, cooperate, or contract with
33 the law enforcement training board, a college or university, or any
34 other individual or entity for the development and providing of
35 courses of study for public safety service providers.

36 Sec. 11. (a) The division's facilities are available for the training
37 of the following:

- 38 (1) The department's employees.
- 39 (2) Professional and volunteer firefighters.
- 40 (3) Emergency management volunteers.
- 41 (4) Environmental management department employees.
- 42 (5) Emergency medical technicians.

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(6) Municipal and county building inspectors.

(7) Other public safety service providers that the division may designate.

(b) The division shall determine the terms and conditions for use of the division's facilities by the providers listed in subsection (a).

Sec. 12. The division may establish fee schedules and charges for the following:

(1) Items or services provided by the division under this chapter.

(2) Training conducted by the division under this chapter.

(3) Other division activities conducted under this chapter.

Sec. 13. The division may accept gifts and grants from any source and use them for the purposes of this chapter.

Sec. 14. The division may perform any other acts that are necessary or appropriate to implement this chapter.

Sec. 15. The executive director may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 17. IC 16-18-2-96 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by IC 16-19-13.

(b) "Director", for purposes of IC 16-27, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-27.

(c) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

(d) "Director", for purposes of IC 16-31, refers to the executive director of the ~~state emergency management agency department of~~ **homeland security** established ~~under IC 10-14-2-1.~~ **by IC 10-19-2-1.**

(e) "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

SECTION 18. IC 16-31-8.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "agency" refers to the ~~state emergency management agency~~ **department of homeland security** established by ~~IC 10-14-2-1.~~ **IC 10-19-2-1.**

SECTION 19. IC 22-12-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. "Department" refers to the ~~fire and building services~~ **department of homeland security** established by **IC 10-19-2-1.**

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SECTION 20. IC 22-12-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The commission consists of ~~nineteen (19) voting~~ **eleven (11)** members, ~~and two (2) nonvoting members:~~ **nine (9) of whom shall be appointed by the** governor. ~~shall appoint seventeen (17) voting members to the commission; each to~~

(b) **A commission member may** serve a term of four (4) years.

(c) The state health commissioner or the commissioner's designee shall serve as a ~~voting~~ member of the commission, and the commissioner of labor or the commissioner's designee shall serve as a ~~voting~~ member of the commission. ~~The state fire marshal and the state building commissioner shall serve as nonvoting members of the commission.~~

~~(b)~~ (d) Each appointed member of the commission must have a recognized interest, knowledge, and experience in the field of fire prevention, fire protection, building safety, or other related matters.

~~(c)~~ The ~~appointed members of~~ **governor shall consider appointing individuals to** the commission ~~must include with experience in~~ the following:

- (1) ~~One (1) member of~~ A paid fire department.
- (2) ~~One (1) member of~~ A volunteer fire department.
- (3) ~~One (1) individual in~~ The field of fire insurance.
- (4) ~~One (1) individual in~~ The fire service industry.
- (5) ~~One (1) individual in~~ The manufactured housing industry.
- (6) ~~One (1) individual in~~ The field of fire protection engineering.
- (7) ~~One (1) professional engineer.~~
- (7) Engineering.**
- (8) ~~One (1) Building contractor.~~ **contracting.**
- (9) ~~One (1) individual in~~ The field of building one (1) and two (2) family dwellings.
- ~~(10) One (1) registered architect.~~
- (10) Architecture.**
- (11) ~~One (1) individual engaged in~~ The design or construction of heating, ventilating, air conditioning, or plumbing systems.
- (12) ~~One (1) individual engaged in~~ The design or construction of regulated lifting devices.
- (13) ~~One (1) building commissioner or building inspector of a City, town, or county~~ **building inspection.**
- (14) ~~One (1) individual in an industry that operates~~ Regulated amusement devices.
- (15) ~~One (1) individual who is knowledgeable in~~ Accessibility requirements and ~~who has~~ personal experience with a disability.

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(16) ~~One (1) individual who represents owners, operators, and installers of~~ Underground and aboveground motor fuel storage tanks and dispensing systems.

(17) ~~One (1) individual in~~ The masonry trades.

~~(d)~~ (e) Not more than ~~ten (10)~~ **five (5)** of the appointed members of the commission may be affiliated with the same political party.

~~(e)~~ (f) An appointed member of the commission may not serve more than two (2) consecutive terms. However, any part of an unexpired term served by a member filling a vacancy does not count toward this limitation.

SECTION 21. IC 22-13-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A county, city, or town may regulate regulated lifting devices if the unit's regulatory program is approved by the commission.

(b) A unit must submit its ordinances and other regulations that regulate lifting devices to the commission for approval. The ordinance or other regulation is not effective until it is approved by the commission. If any of these ordinances or regulations conflict with the commission's rules, the commission's rules supersede the local ordinance or other regulation.

(c) A unit may issue permits only to applicants who qualify under IC 22-15-5. However, the unit may specify a lesser fee than that set under IC 22-12-6-6(a)(7).

(d) A unit must inspect regulated lifting devices with inspectors who possess the qualifications necessary to be employed by the ~~office of the state building commissioner~~ **law compliance officer in the department of homeland security** as a regulated lifting device inspector.

SECTION 22. IC 22-13-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Upon the written request of an interested person, the ~~office of the state building commissioner~~ **law compliance officer in the department of homeland security** may issue a written interpretation of a building law. An interpretation issued by the ~~office of the state building commissioner~~ **law compliance officer in the department of homeland security** must be consistent with building laws enacted by the general assembly or adopted by the commission.

(b) The ~~office of the state building commissioner~~ **law compliance officer in the department of homeland security** may issue a written interpretation of a building law under subsection (a) whether or not the county or municipality has taken any action to enforce the building law.

SECTION 23. IC 22-13-5-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A written
 2 interpretation of a building law binds all counties and municipalities if
 3 the ~~office of the state building commissioner~~ **law compliance officer**
 4 **in the department of homeland security** publishes the written
 5 interpretation of the building law in the Indiana Register under
 6 IC 4-22-7-7(b). For purposes of IC 4-22-7-7, a written interpretation of
 7 a building law published by the ~~office of the state building~~
 8 ~~commissioner~~ **law compliance officer in the department of**
 9 **homeland security** is considered adopted by an agency.

10 (b) A written interpretation of a building law published under
 11 subsection (a) binds all counties and municipalities until the earlier of
 12 the following:

13 (1) The general assembly enacts a statute that substantively
 14 changes the building law interpreted or voids the written
 15 interpretation.

16 (2) The commission adopts a rule under IC 4-22-2 to state a
 17 different interpretation of the building law.

18 (3) The written interpretation is found to be an erroneous
 19 interpretation of the building law in a judicial proceeding.

20 (4) The ~~office of the state building commissioner~~ **law compliance**
 21 **officer in the department of homeland security** publishes a
 22 different written interpretation of the building law.

23 SECTION 24. IC 22-14-1-4 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Office" refers to the
 25 ~~office of the state fire marshal~~ **division of fire and building safety**
 26 **established by IC 10-19-7-1.**

27 SECTION 25. IC 22-15-1-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Office" refers to the
 29 ~~office of the state building commissioner~~ **division of fire and building**
 30 **safety established by IC 10-19-7-1.**

31 SECTION 26. IC 4-3-20 IS REPEALED [EFFECTIVE JULY 1,
 32 2005].

33 SECTION 27. IC 5-2-10.5 IS REPEALED [EFFECTIVE JULY 1,
 34 2005].

35 SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE
 36 JULY 1, 2005]: IC 10-14-2-1; IC 10-14-2-2; IC 10-14-2-3.

37 SECTION 29. THE FOLLOWING ARE REPEALED [EFFECTIVE
 38 JULY 1, 2005]: IC 10-15-1-2; IC 10-15-1-7.

39 SECTION 30. THE FOLLOWING ARE REPEALED [EFFECTIVE
 40 JULY 1, 2005]: IC 22-12-5; IC 22-14-2-1; IC 22-14-2-3; IC 22-15-2-1;
 41 IC 22-15-2-2; IC 22-15-2-3; IC 22-15-2-4; IC 22-15-2-5.

42 SECTION 31. [EFFECTIVE JULY 1, 2005] (a) **The definitions in**

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1 IC 10-19-1, as added by this act, apply throughout this SECTION.

2 (b) After June 30, 2005, the following apply:

3 (1) The powers and duties of the counterterrorism and
4 security council established by IC 4-3-20-2 are transferred to
5 the council established by IC 10-19-8-1, as added by this act.

6 (2) A reference to the counterterrorism and security council
7 established by IC 4-3-20-2 in a statute, a rule, or another
8 document is considered a reference to the council established
9 by IC 10-19-8-1, as added by this act.

10 (3) All the property of the counterterrorism and security
11 council established by IC 4-3-20-2 is transferred to the
12 department.

13 (4) An appropriation to the counterterrorism and security
14 council established by IC 4-3-20-2, in effect after June 30,
15 2005, is transferred to the department.

16 (5) Personnel positions of the counterterrorism and security
17 council established by IC 4-3-20-2 are transferred to the
18 department.

19 (6) This subdivision applies to an individual employed by the
20 counterterrorism and security council established by
21 IC 4-3-20-2 on June 30, 2005:

22 (A) The individual is entitled to become an employee of the
23 department on July 1, 2005.

24 (B) The individual is entitled to have the individual's
25 service as an employee of the counterterrorism and
26 security council before July 1, 2005, included for the
27 purpose of computing all applicable employment rights
28 and benefits with the department.

29 (7) All leases and obligations entered into by the
30 counterterrorism and security council established by
31 IC 4-3-20-2 before July 1, 2005, that are legal and valid on
32 July 1, 2005, are obligations of the department beginning July
33 1, 2005.

34 (c) This SECTION expires July 1, 2008.

35 SECTION 32. [EFFECTIVE JULY 1, 2005] (a) The definitions in
36 IC 10-19-1, as added by this act, apply throughout this SECTION.

37 (b) As used in this SECTION, "board" refers to the public
38 safety training board created by IC 5-2-10.5-5.

39 (c) As used in this SECTION, "division" refers to the division of
40 preparedness and training of the department.

41 (d) As used in this SECTION, "institute" refers to the public
42 safety institute established by IC 5-2-10.5-4.

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(e) After June 30, 2005, the following apply:

(1) The board and the institute are abolished.

(2) The powers and duties of the board and the institute are transferred to the division.

(3) A reference to the board or the institute in a statute, a rule, or another document is considered a reference to the division.

(4) All the property of the board and the institute is transferred to the department.

(5) An appropriation to the board or the institute, in effect after June 30, 2005, is transferred to the department.

(6) Personnel positions of the board or the institute are transferred to the department.

(7) This subdivision applies to an individual employed by the board or the institute on June 30, 2005:

(A) The individual is entitled to become an employee of the department on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the board or the institute before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department.

(8) All leases and obligations entered into by the board or the institute before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department beginning July 1, 2005.

(f) This SECTION expires July 1, 2008.

SECTION 33. [EFFECTIVE JULY 1, 2005] (a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.

(b) As used in this SECTION, "agency" refers to the state emergency management agency established by IC 10-14-2-1.

(c) After June 30, 2005, the following apply:

(1) The agency is abolished.

(2) The powers and duties of the agency are transferred to the department.

(3) A reference to the agency in a statute, a rule, or another document is considered a reference to the department.

(4) All the property of the agency is transferred to the department.

(5) An appropriation to the agency, in effect after June 30, 2005, is transferred to the department.

(6) The following funds are transferred to the department:

(A) The emergency management contingency fund

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- 1 established by IC 10-14-3-28.
- 2 (B) The state disaster relief fund established by
- 3 IC 10-14-4-5.
- 4 (C) The nuclear response fund established under
- 5 IC 10-14-6.
- 6 (7) Personnel positions of the agency are transferred to the
- 7 department.
- 8 (8) This subdivision applies to an individual employed by the
- 9 agency on June 30, 2005:
- 10 (A) The individual is entitled to become an employee of the
- 11 department on July 1, 2005.
- 12 (B) The individual is entitled to have the individual's
- 13 service as an employee of the agency before July 1, 2005,
- 14 included for the purpose of computing all applicable
- 15 employment rights and benefits with the department.
- 16 (9) All leases and obligations entered into by the agency
- 17 before July 1, 2005, that are legal and valid on July 1, 2005,
- 18 are obligations of the department beginning July 1, 2005.
- 19 (d) This SECTION expires July 1, 2008.
- 20 SECTION 34. [EFFECTIVE JULY 1, 2005] (a) The definitions in
- 21 IC 10-19-1, as added by this act, apply throughout this SECTION.
- 22 (b) As used in this SECTION, "fire and building services
- 23 department" refers to the department established by IC 22-12-5-1,
- 24 before its repeal by this act.
- 25 (c) As used in this SECTION, "department of homeland
- 26 security" refers to the department established by IC 10-19-2-1, as
- 27 added by this act.
- 28 (d) After June 30, 2005, the following apply:
- 29 (1) The fire and building services department is abolished.
- 30 (2) The powers and duties of the fire and building services
- 31 department are transferred to the department of homeland
- 32 security.
- 33 (3) A reference to the fire and building services department in
- 34 a statute, a rule, or another document is considered a
- 35 reference to the department of homeland security.
- 36 (4) All the property of the fire and building services
- 37 department is transferred to the department of homeland
- 38 security.
- 39 (5) An appropriation to the fire and building services
- 40 department, in effect after June 30, 2005, is transferred to the
- 41 department of homeland security.
- 42 (6) The following funds are transferred to the department of

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homeland security:

(A) The fire and building services fund established by IC 22-12-6-1.

(B) The statewide arson investigation financial assistance fund established by IC 22-12-6-2.

(C) The statewide fire and building safety education fund established by IC 22-12-6-3.

(D) The firefighting and emergency equipment revolving loan fund established by IC 22-14-5-1.

(7) Personnel positions of the fire and building services department are transferred to the department of homeland security.

(8) This subdivision applies to an individual employed by the fire and building services department on June 30, 2005:

(A) The individual is entitled to become an employee of the department of homeland security on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the fire and building services department before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department of homeland security.

(9) All leases and obligations entered into by the fire and building services department before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department of homeland security beginning July 1, 2005.

(e) This SECTION expires July 1, 2008.

SECTION 35. [EFFECTIVE JULY 1, 2005] (a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.

(b) As used in this SECTION, "division" refers to the division of fire and building safety of the department of homeland security established by IC 10-19-7-1, as added by this act.

(c) As used in this SECTION, "office" refers to the office of the state building commissioner established by IC 22-15-2-1, before its repeal by this act.

(d) After June 30, 2005, the following apply:

(1) The office is abolished.

(2) The powers and duties of the office are transferred to the division.

(3) A reference to the office in a statute, a rule, or another document is considered a reference to the division.

(4) All the property of the office is transferred to the division.

(5) An appropriation to the office, in effect after June 30,

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2005, is transferred to the division.

(6) Personnel positions of the office are transferred to the division.

(7) This subdivision applies to an individual employed by the office on June 30, 2005:

(A) The individual is entitled to become an employee of the division on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the office before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department of homeland security.

(8) All leases and obligations entered into by the office before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department of homeland security beginning July 1, 2005.

(e) This SECTION expires July 1, 2008.

SECTION 36. [EFFECTIVE JULY 1, 2005] (a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.

(b) As used in this SECTION, "commissioner" refers to the state building commissioner appointed under IC 22-15-2-2, before its repeal by this act.

(c) As used in this SECTION, "division" refers to the division of fire and building safety of the department of homeland security established by IC 10-19-7-1, as added by this act.

(d) After June 30, 2005, the following apply:

(1) The powers and duties of the commissioner are transferred to the division.

(2) A reference to the commissioner in a statute, a rule, or another document is considered a reference to the division.

(e) This SECTION expires July 1, 2008.

SECTION 37. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "commission" refers to the fire prevention and building safety commission established by IC 22-12-2-1.

(b) Notwithstanding any other law, the term of office of a member of the commission serving on June 30, 2005, terminates July 1, 2005.

(c) The governor shall appoint the number of members of the commission provided by IC 22-12-2-2, as amended by this act.

(d) This SECTION expires July 1, 2009.

SECTION 38. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "department" refers to the department of homeland

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- 1 security established by IC 10-19-2-1, as added by this act.
- 2 (b) The legislative services agency shall prepare legislation for
- 3 introduction in the 2006 regular session of the general assembly to
- 4 organize and correct statutes affected by the establishment of the
- 5 department by this act.
- 6 (c) This SECTION expires July 1, 2006.

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SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 56 and that Senator Wyss be substituted therefor.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 56, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Homeland Security, Utilities, and Public Policy.

(Reference is to SB 56 as introduced.)

GARTON, Chairperson

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